

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHAEL S. MILLER,

Plaintiff,

vs.

JEFF ROWELL, Emergency
Management Agency Deputy Director;
and ELI DAVIDSON, Deputy Sheriff,

Defendants.

8:21CV270

ORDER

This matter is before the court for case management. The Prison Litigation Reform Act requires an imprisoned civil plaintiff to pay the court's entire filing fee, either at the outset when filing the complaint, or in installments if the court grants leave to proceed in forma pauperis ("IFP"). *In re Tyler*, 110 F.3d 528, 529-30 (8th Cir. 1997); *Jackson v. N.P. Dodge Realty Co.*, 173 F. Supp. 2d 951 (D. Neb. 2001).

On August 10, 2021, the court granted Plaintiff's motion seeking leave to proceed IFP and ordered him to pay an initial partial filing fee in the amount of \$6.97 within 30 days. (See Filing 8.) On September 10, 2021, the court entered an order requiring Plaintiff to show cause why this case should not be dismissed for his failure to pay the initial partial filing fee. (See Filing 9.) On October 18, 2021, the court received a reduced payment from Plaintiff in the amount of \$5.81.

On its own motion, the court will give Plaintiff additional time to pay the balance owing on the initial partial filing (*i.e.*, \$1.16), or to show cause why the case should not be dismissed for failure to pay the full amount of the initial partial filing fee. If Plaintiff's failure to pay was caused by prison officials' failure to adhere to his request to remit payment using funds from his account or other circumstances beyond his control, his failure to pay will be excused. Absent a sufficient response,

the case will be subject to dismissal. *See Taylor v. Cassady*, 570 Fed. App'x. 632 (8th Cir. 2014) (holding district court abused its discretion by dismissing case without first taking steps to determine whether prisoner-plaintiff's failure to pay the initial partial filing fee "was caused by circumstances beyond his control, such as prison officials' failure to adhere to his request to remit payment using funds from his account").

IT IS THEREFORE ORDERED that:

1. Plaintiff will have 30 days to pay the balance owing on the initial partial filing fee or to show cause why this case should not be dismissed for failure to pay the full amount of the initial partial filing fee. In the absence of cause shown, this case will be dismissed without prejudice and without further notice.
2. The clerk of the court is directed to set a pro se case management deadline in this case using the following text: **November 18, 2021**: check for response to show cause order.

Dated this 19th day of October 2021.

BY THE COURT:

Richard G. Kopf
Richard G. Kopf
Senior United States District Judge